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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,498	08/30/2000	JOHN T. DEVLIN	MIO-0071-PA	1401

7590 10/16/2003

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EXAMINER

KACKAR, RAM N

ART UNIT PAPER NUMBER

1763

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/651,498	Applicant(s) DEVLIN ET AL. 09651498	
	Examiner Ram N Kackar	Art Unit 1763	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 36 and 39-42.

Claim(s) withdrawn from consideration: 37-38 and 43.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached for answer to applicants remarks.

GREGORY MILLS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Continuation of 3. Applicant's reply has overcome the following rejection(s): 112 first paragraph, in view of cancellation of claims 37-38 and 43.

Art Unit: 1763

Response to Amendment

In applicants remarks dated 09/08/2003 applicant has asserted that the examiner has not made a sufficiently prima facie case of claim 36 being unpatentable over Sugimoto in view of Kimura. Specifically, applicant argues that Sugimoto is not obviously equivalent to claimed "open frame work".

Examiners position in this regard is that Sugimoto et al do disclose a framework, which allows unrestricted vertically upward movement of air along the spindle, for the purpose of temperature control and reduction of contamination. At col 2 lines 60 to 64 Sugimoto clearly refers to this as "This air flow maintains the substrate temperature and ambient temperature at the predetermined temperature while protecting the lower surface of the substrate from adhesion of mist and particles". Sugimoto fully realizes the importance of airflow passage dimensions to its performance for the stated objective (See also Col 3 lines 24-26). Compare this to the applicant's specification on page 10 lines 21-26. It is clear that Sugimoto is aware of this problem and proposes similar solution.